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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/709,697	05/24/2004	Kenneth William Austin	60655.4017	3696

66170 7590 09/16/2010  
Snell & Wilmer L.L.P. (AMEX)  
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PHOENIX, AZ 85004-2202

EXAMINER
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TROTTER, SCOTT S

ART UNIT	PAPER NUMBER
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3694

NOTIFICATION DATE	DELIVERY MODE
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09/16/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

HSOBELMAN@SWLAW.COM  
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<b>Office Action Summary</b>	<b>Application No.</b> 10/709,697	<b>Applicant(s)</b> AUSTIN ET AL.	
	<b>Examiner</b> SCOTT S. TROTTER	<b>Art Unit</b> 3694	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 June 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3, and 5-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This action is in response to the amendment received June 21, 2010. This rejection is **Final**.

#### ***Response to Arguments***

2. Regarding Lee's evaluations deciding which model to use can be an evaluation of fraud (making it step one) which is then further analyzed by the selected model using database data with at least the weights to be applied to the data being changed by the evaluation of the first model since different models are used based on that analysis (making it step two). The requests for more information are an override request. If the requested information doesn't match it is evaluated as probably fraudulent if it does it is assumed to be the actual person in spite of the previous evaluation making it an override and a third step.

3. Applicant's arguments were considered but were not persuasive.

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 1-3, and 5-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee et al. (U.S. Patent 7,263,506 B2) in view of Penzias (U.S. Patent 5,311,594).

As per claims 1 and 7 Lee teaches scoring the likelihood of fraud in a transaction based on the data available about the transaction which is related to the customer because they selected what to buy and where to send it. (*see Lee column 4 lines 50 – column 5 line 38*) This is done using multiple statistical models based on the type of transaction involved which is selectively evaluating a first set of criteria and then selectively evaluating a second set of criteria. (*see at least Lee column 7 lines 32-50*. The first model evaluation is the picking of which model should be used to further evaluate the likelihood of fraud) If there is considered too high a likelihood of fraud a web page requesting further information from the customer can be generated. (*see Lee column 8 lines 6-7*) While Lee does not specify what further information should be requested Penzias teaches requesting information to confirm a card holder's identity by selectively asking one of several questions that the customer would know the answer to confirm identity. (*see Penzias abstract*) This is overriding a denial that would otherwise have been issued. Therefore it would have been obvious to request further information to confirm the identity of the cardholder using known methods to achieve an expected result.

As per claim 2 Lee teaches the purchase of goods and services over the Internet using a credit card which is a financial transaction instrument. (*see Lee column 1 lines 23-28*)

As per claims 3 and 8 Penzias teaches the information being stored to confirm identity includes address and telephone number information. (*see Penzias column 4 lines 7-21* The information is being used as a password even if it is not called such.) Therefore it would have been obvious to a user of ordinary skill in the art at the time the invention was made to use such information as passwords.

As per claims 5 and 9 Lee teaches using a score to authorize a transaction and Penzias teaches using a properly answered question to authorize a transaction. Therefore it would have been obvious to request further information to confirm the identity of the cardholder using known methods to achieve an expected result.

As per claim 6 it is a parallel system claim to method claim 1 and is rejected under the same rationale as claim 1.

As per claim 10 completing a purchase changes the financial information related to said transaction card account.

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication from the examiner should be directed to Scott S. Trotter, whose telephone number is 571-272-7366. The examiner can normally be reached on 8:30 AM – 5:00 PM, M-F.

8. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James P. Trammell, can be reached on 571-272-6712.

9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

10. The fax phone number for the organization where this application or proceeding is assigned are as follows:

(571) 273-8300 (Official Communications; including After Final  
Communications labeled "BOX AF")

(571) 273-6705 (Draft Communications)

sst  
9/13/2010

/KIRSTEN S APPLE/

Primary Examiner, Art Unit 3694

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